

Appendix B – Data from Sample MS4 Annual Reports and Example Ordinances

1. Phoenix, AZ (2009 permit)

Inventory: must include industrial facilities (minimum list from 122.26(d)(2)(iv)(C)) and other commercial and industrial facilities which may be significant sources of pollutants. Prioritize the list based on Best Professional Judgment (BPJ).

Inspections: permittee must inspect at least 1,700 facilities from the overall inventory during the five year term of the permit.

2012 annual report: current inventory includes 3,000 industrial facilities and 5,000 commercial facilities. Permittee inspected 638 facilities in the latest year and issued 232 notices of violation.

City of Phoenix Ordinances:

Chapter 32C Stormwater Quality Protection

Chapter 32C-102 Declaration of Nuisance

(B) It is hereby declared to be a public nuisance for any person to store, use, manufacture, process, handle or release significant materials, pollutants, or stormwater in a manner that causes or contributes to: (1) [...] (3) a violation of an applicable water quality standard; [...]. An act is not a public nuisance if it is authorized in: (1) this chapter; (2) an administrative rule, permit, plan approval, or other authorization issued in compliance with this chapter; or (3) a NPDES/AZPDES permit.

Chapter 32C-104 Stormwater Management Plan

(A) Any person who conducts an activity on nonresidential property or conducts an activity for a fee or charge on residential property that has the reasonable potential to affect the quality or volume of stormwater impounded upon or released from the property, regardless of whether it is raining at the time, shall prepare a detailed written stormwater management plan as described in this section. There is a rebuttable presumption that a stormwater management plan is not required for activities conducted within completely enclosed structures and in other areas that are permanently inaccessible to contact with stormwater or other sources of water, including run-on and run-off.

[...]

(F) A stormwater management plan shall include, to the extent applicable, best management practices for: managing litter; the use, storage, treatment, and disposal of significant materials; the use and disposal of pesticides and herbicides; reducing the velocity of releases to a public storm drain system; the use of landscape features to reduce the quantity and velocity of stormwater that may be released off-site; maintenance of retention basins and other stormwater management devices and facilities; underground storage and other treatment devices; maintenance and cleaning of parking lots and buildings; and ensuring that significant materials are not exposed to direct contact with stormwater; and documented employee and contractor training.

Chapter 32C-109 Stormwater Treatment Devices

(A) Where necessary in the opinion of the City Manager, any person that seeks to use a direct connection to the public storm drain system shall provide, at their expense, such treatment devices, facilities or interceptors as may be necessary to reduce the objectionable characteristics or constituents of the released water to within the limits provided for in this chapter. Plans, specifications, and any other pertinent information relating to proposed treatment devices, facilities or interceptors shall be submitted for approval of the City Manager. No construction of such treatment devices, facilities or interceptors shall be commenced until the written approval from the City is obtained. City approval of the plans and inspection of the construction shall not relieve the owner from complying with the release limits set forth in this chapter.

2. City and County of Honolulu, HI (2011 permit)

Inventory: must include industrial facilities (facilities subject to industrial general permit at a minimum) and other commercial and industrial facilities that may be significant sources of pollutants; commercial list must include specified facilities such as gas stations and restaurants, and others based on BPJ. Prioritize the overall list based on BPJ.

Inspections: Permittee must inspect at least 400 facilities/year from the overall inventory.

2011 annual report: current inventory includes 5,500 facilities (industrial and commercial combined). Permittee inspected 412 facilities and has issued about 40 notices of violation/year.

Ordinance: Article 11 Drainage, Flood, and Pollution Control

Section 14-12.23 Environmental Quality Control-Violation It shall be unlawful for any person to discharge or cause to be discharged any pollutant into any drainage facility which causes a pollution problem in state waters, or causes a violation of any provision of the city NPDES permit or the water quality standards of the State of Hawaii.

3. San Francisco Bay Regional Permit (2009 Permit)

Inventory: permit requires inventory of industrial facilities (from 122.26(b)(14)) and certain specified commercial facilities (e.g., gas stations) and others based on BPJ. Prioritize the list based on BPJ.

Inspections: inspection frequency developed by MS4 based on BPJ.

San Jose, CA

2011-2012 annual report: current inventory includes 10,900 facilities (industrial and commercial combined). Permittee inspected over 4,250 facilities in the latest year and issued over 825 notices of violation.

City of Concord

2011-2012 annual report: current inventory includes 897 facilities (industrial and commercial combined). Permittee conducted 372 inspections and issued 17 notices of violation.

Ordinance: Chapter 86 Stormwater Management and Control

Section 86-37: Any discharge that would result in or contribute to a violation of the City's NPDES permit either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person causing or responsible for the discharge, and such person shall defend, indemnify and hold harmless the City in any administrative or judicial enforcement action relating to such discharge.

Section 86-39(a): Generally. Any person owning or operating premises that may contribute pollutants to the City's stormwater system shall undertake all practicable best management practices to reduce the potential for pollutants entering the system. Examples of such premises include, but are not limited to, parking lots, gasoline stations, industrial facilities, and other commercial enterprises.

Section 86-39(d): Parking Lots, Paved Areas and Related Stormwater Systems. Persons owning, operating or maintaining a paved parking lot, the paved areas of a gasoline station, a paved private street or road, and related stormwater systems shall clean those premises as frequently and thoroughly as practicable in a manner that does not result in the discharge of pollutants to the City's stormwater system.

Section 86-39(i): Stormwater Pollution Prevention Plan. The Director may require any business or utility in the City that is engaged in activities that may result in non-stormwater discharges or runoff pollutants to develop and implement a stormwater pollution prevention plan, which must include an employee training program. Business activities which may require a stormwater pollution prevention plan include maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading, fueling, vehicle maintenance, food handling or processing, or cleanup procedures which is carried out partially or wholly out of doors.

San Mateo, CA

2011-2012 annual report: current inventory includes over 530 (industrial and commercial combined). Permittee conducted over 400 inspections and issued 36 notices of violation.

Ordinance: Title VII Health Sanitation and Public Nuisance

Chapter 7.39.120: Reduction of Pollutants in Stormwater. Any person engaging in activities which may result in pollutants entering the City's stormwater system shall undertake all practicable measures to reduce and/or eliminate such pollutants. All activities that do actually, or may potentially, result in the deposit of pollutants in or on the City's storm water system, in any tributary of this system, and all land which drains to either this system or any of its tributaries shall be construed as activities which may result in pollutants entering the City's stormwater system. Examples of such activities include, but are not limited to, ownership and use of premises which may be a source of pollutants such as parking lots, gasoline stations, industrial facilities, business enterprises and dwelling units.

Chapter 7.39.120(b): Standards for Parking Lots and Similar Structures. Persons owning or operating a parking lot, gas station pavement or similar structure shall clean those structures as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the City storm drain system.

City of Santa Rosa

Ordinance: Chapter 17.12.180 Enforcement

Chapter 17.12.180(G): PredischARGE Facility. When source reduction BMPs are in the opinion of the Director of Public Works inadequate to prevent actual or potential prohibited discharges from a commercial facility to the City's storm water system, the Director of Public Works may require that the owner of the commercial facility shall provide, at the owner's expense, such predischARGE facilities as may be necessary to reduce the pollutant load at a point prior to discharge from said facility or to any element of the City's storm water system. The Director of Public Works may further require that the owner of the commercial facility, at the owner's expense, provide a monitoring access hole so that the pollutant loading may be periodically measured. Examples of predischARGE facilities are oil/grease interceptors and sand/silt interceptors. Plans, specifications, and other pertinent factors related to the aforementioned predischARGE facilities shall be submitted to the City for approval by the Director of Public Works. Construction of the proposed facilities shall not commence until the Director's approval is obtained in writing and use of the facilities shall not commence until the completed facilities are approved in writing by the Director. Such facilities, once approved, shall be continuously maintained in satisfactory operating condition to the satisfaction of the Director of Public Works.

4. Orange County, CA (Permitted by two 2009 permits (north/south parts of the County))

Inventory: must include industrial facilities (list from 122.26(b)(14)), specified commercial facilities (e.g., gas stations) and other commercial and industrial facilities which may be significant sources of pollutants. For the North County only, prioritize the industrial and commercial lists based on BPJ (high, medium, low).

Inspections: for the North County - high priority industrial facilities must be inspected once/year; medium once/2 years; low once/5 years. These same frequencies apply to commercial facilities – at least 10 percent of the commercial facilities must be classified as high priority. For the South County, 20 percent of inventory must be inspected each year.

2012 annual report: current inventory includes 5,600 industrial facilities and 9,350 commercial facilities. In the latest year, permittees inspected 2,200 industrial facilities (and issued 378 notices of violation) and 4,600 commercial facilities (and issued 863 notices of violation).

Ordinance: Title 9 Water Quality Orange County Flood Control District

Article 1 Section 9-1-30(u) Prohibited Discharge: shall mean any discharge which contains any pollutant, from public or private property, to (1) the stormwater drainage system; [...].

Article 2 Section 9-1-140(a): No Person shall [...] (2) Cause, allow, or facilitate any prohibited discharge.

5. City of Los Angeles, CA (co-permittee in 2012 permit)

Inventory: must include industrial facilities (list from 122.26(b)(14)), specified commercial facilities (e.g., gas stations, restaurants) and other commercial facilities which may be significant sources of pollutants.

Inspections: all commercial facilities in the inventory must be inspected twice/5 years. Industrial facilities must also be inspected twice/5 years unless the facility has filed a no exposure certification in which case once/5 years is required.

2012 annual report: total inventory is unclear from the report. Permittee inspected 10,000 facilities during the year and 200 facilities were required to upgrade.

City of San Diego

Chapter 4 Health and Sanitation

Section 43.0304(b) Prohibited Discharges It is unlawful for any person to cause either individually or jointly any discharge into or from the Storm Water Conveyance System which results in or contributes to a violation of NPDES Permit No. CA0108758 [San Diego MS4 Permit]

Section 43.0307(a) Reduction of Pollutants in Stormwater Every person undertaking any activity or use of a Premises which may cause or contribute to Storm Water pollution or contamination, Illegal Discharges, or Non-Storm Water Discharges shall comply with BMP guidelines or pollution control requirements as may be established by the Enforcement Official. BMP shall be maintained routinely throughout the life of the activity. Such BMP include, but are not limited to, the following: (1) Controlling Pollutants From Parking Lots: Any owner or operator of vehicle parking lots that are located in areas potentially exposed to Storm Water shall be required to conduct regular sweepings and other effective measures to control Pollutant runoff.

City of Sacramento

Title 13.16 Stormwater Management and Discharge Control

Section 13.16.120: Reduction of Pollutants in Stormwater

Any person engaged in activities that may result in pollutants entering the stormwater conveyance system shall, to the maximum extent practicable, undertake the measures set forth below to reduce the risk of non-stormwater discharge and/or pollutant discharge.

(A) Business Related Activities (1) Stormwater Pollution Prevention Plan. The enforcement official may require any business in the city engaged in activities that may result in a non-stormwater discharge to develop and implement a stormwater pollution prevention plan that must include an employee training program. Business activities that may require a stormwater pollution prevention plan include, but are not limited to, maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading or fueling, and cleanup procedures that are carried out partially or wholly outdoors.

Section 13.16.130 Compliance with Best Management Practices

Every person undertaking any activity or use of a premises that may cause or contribute to stormwater pollution or contamination, illegal discharges, or non-stormwater discharges shall: (1) comply with best management practices guidelines or pollution control requirements established or imposed by the enforcement official; and (2) properly operate and maintain any treatment control device or other measures utilized on the premises to prevent or reduce, to the maximum extent practicable, stormwater pollution or contamination, illegal discharges or non-stormwater discharges, as required by the enforcement official.

6. Las Vegas Valley, NV (2010 permit with five co-permittees, including Henderson, NV)

Inventory: must include industrial facilities (minimum list from 122.26(d)(2)(iv)(C)) and other commercial and industrial facilities which may be significant sources of pollutants. Prioritize the list based on best professional judgement (BPJ).

Inspections: inspection frequency developed by MS4 based on BPJ.

2012-2013 annual report: Permittees report 78 industrial facilities subject to EPCRA 313 reporting requirements and they have not identified any facilities other than those that are contributing a substantial pollutant loading to the MS4. However, the Permittees conduct stormwater inspections of other facilities including airport bus terminals and rental car facilities. Permittees inspected 1,776 facilities with 38 of those leading to further action.

Henderson, NV Ordinance: Title 13 Stormwater Regulations

Section 13.04.150 Requirements to prevent, control, and reduce stormwater pollutants by the use of Best Management Practices

A. *Required BMPs.* The city shall require BMPs for any activity, operation, business, facility, or development that may cause or contribute to pollution or contamination of storm water, the MS4, waters of the State of Nevada, or waters of the U.S. The owner or operator responsible for said activity, operation, business, facility, or development shall provide, at their own expense, reasonable protection from accidental or intentional discharge of prohibited materials or other wastes into the MS4 to the maximum extent practicable through the use of BMPs. The use of BMPs shall not absolve any owner or operator from complying with any requirement set forth in this chapter or state and federal permits.

B. *Inadequate BMPs.* If at any time the city determines that the BMPs are inadequate to provide reasonable protection from accidental or intentional discharge of prohibited materials or other wastes to the maximum extent practicable for any activity, operation, facility, or development that may cause or contribute to pollution or contamination of storm water, the MS4, waters of the State of Nevada, or waters of the U.S. the owner or operator responsible for said property or premises may be required to implement additional BMPs at their own expense to prevent the potential or further discharge of pollutants.